

United States
Circuit Court of Appeals
For the Ninth Circuit. //

EDWARD WHITE, as Commissioner of Immigration
at the Port of San Francisco,
Appellant,

vs.

YOUNG YEN and YOUNG SOON,
Appellees.

Transcript of Record.

Upon Appeal from the Southern Division of the
United States District Court for the
Northern District of California,
First Division.

FILED
SEP 14 1921
F. D. MONCKTON,
CLERK

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Circuit Court of Appeals
For the Ninth Circuit.

EDWARD WHITE, as Commissioner of Immigration
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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys of Record.

For Petitioner and Appellee:

GEO. A. McGOWAN, Esq., San Francisco, Cal.

For Respondent and Appellant:

UNITED STATES ATTORNEY, San Francisco, Cal.

In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 17,215.

In the Matter of YOUNG YEN and YOUNG SOON, on Habeas Corpus.

Praeipce for Transcript of Record.

To the Clerk of Said Court:

Sir: Please make copies of the following papers to be used in preparing transcript on appeal:

1. Petition for writ of habeas corpus.
2. Order to show cause.
3. Demurrer to petition.
4. Order overruling demurrer and directing that writ of habeas corpus issue returnable June 27, 1921.
5. Writ of habeas corpus and marshal's return of service.
6. Return to writ of habeas corpus.
7. Traverse to return.
8. Order discharging petitioners, dated July 2, 1921.

*Page-number appearing at foot of page of original certified Transcript of Record.

9. Notice of appeal.
10. Petition for appeal.
11. Assignment of errors.
12. Order allowing appeal.
13. Citation on appeal.
14. Stipulation of attorneys and order of the Court that Respondent's Exhibits "A," "B," "C," "D," "E" and "F," being the record of the Bureau of Immigration, be transferred to the United States Circuit Court of Appeals for the Ninth Circuit, to be considered in their original form, and without being transcribed or copied.
15. Order transmitting original exhibits to Appellate Court. [1*]

FRANK M. SILVA,
United States Attorney.
BEN. F. GEIS,

Assistant United States Attorney.

Receipt of service of copy of the within praecipe for transcript of record is acknowledged this 25th day of July, 1921.

GEO. A. MCGOWAN,
Attorney for Appellees.

[Endorsed]: Filed Jul. 25, 1921. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [2]

In the Southern Division of the United States District Court in and for the Northern District of California, First Division.

No. 17,215.

In the Matter of YOUNG YEN and YOUNG SOON (19981/15-6 and 7 Ex. SS. "Nile" 2/21/21), on Habeas Corpus.

Petition for Writ of Habeas Corpus.

To the Honorable, United States District Judge,
Now Presiding in the United States District Court, in and for the Northern District of California, First Division:

It is respectfully shown by the petition of the undersigned that Young Yen and Young Soon, hereafter in this petition referred to as "the detained," are unlawfully imprisoned, detained, confined and restrained of their liberty by Edward White, Commissioner of Immigration for the port of San Francisco, at the Immigration Station at Angel Island, county of Marin, State and Northern District of California, Southern Division thereof; that the said imprisonment, detention, confinement and restraint are illegal, and that the illegality thereof consists in this, to wit:

That it is claimed by the said Commissioner that the said detained are Chinese persons and aliens not subject or entitled to admission into the United States under the terms and provisions of the Acts of Congress of May 6th, 1882, July 5th, 1884, November 3d, 1893, and April 29th, 1902, as amended

and re-enacted by Section 5 of the Deficiency Act of April 7th, 1904, which said Acts are commonly known and referred to as the Chinese Exclusion or Restriction Acts; and that he, the said Commissioner, intends to deport the said detained away from and [3] out of the United States to the Republic of China.

That the said Commissioner claims that the said detained arrived at the port of San Francisco on or about the 21st day of February, 1921, on the SS. "Nile," and thereupon made application to enter the United States as the sons of native-born citizens thereof, and that the applications of the said detained to enter the United States as citizens thereof were denied by the said Commissioner of Immigration, and that appeals were thereupon taken from the excluding decision of the said Commissioner of Immigration, to the Secretary of the Department of Labor, and that the said secretary thereafter dismissed the said appeals; that it is claimed by the said Commissioner that in all of the proceedings had herein the said detained were accorded a full and fair hearing; that the action of the said Commissioner and the said secretary was taken and made by them in the proper exercise of the discretion committed to them by the statute in such cases made and provided, and in accordance with the regulations promulgated under the authority contained in said statutes.

But, on the contrary, your petitioner, on his information and belief alleges that the hearing and proceedings had herein, and the action of the said

Commissioner, and the action of the said Secretary was and is in excess of the authority committed to them by the said rules and regulations and by said statutes and that the denial of the application of the said detained to enter the United States as the sons of native-born citizens thereof, was and is an abuse of the authority committed to them by the said statutes in each of the following particulars hereinafter set forth:

Your petitioner alleges upon his information and belief [4] that the evidence presented before the immigration authorities upon the applications of the said detained to enter the United States, which said evidence is now hereby referred to with the same force and effect as if set forth in full herein, was of such a conclusive kind and character establishing the birth of the fathers of the detained within the United States and hence showing the said detained to be the sons of native-born citizens thereof, and which said evidence was of such legal weight and sufficiency tht it was an abuse of discretion on the part of the said Commissioner and the said Secretary to deny the said detained the right to admission into the United States and instead thereof to refuse to be guided by said evidence, and the said adverse action of the said Commissioner and the said Secretary was, your petitioner alleges upon his information and belief, arrived at and was done in denying the said detained the fair hearing and consideration of their cases to which they were entitled. Said action was done in excess of the discretion committed to the said Sec-

retary and to the said Commissioner of Immigration. And your petitioner further alleges upon his information and belief, that the said action of the said Secretary and the said Commissioner was influenced against the said detained and against their witnesses solely because of their being of the Chinese race.

That your petitioner has not in his possession any part or parts of the said proceedings had before the said Commissioner and the said Secretary of Labor for the reason that your petitioner has just received telegraphic advice of the dismissal of the said appeals, and the copy of the said records, formerly in the possession of the attorney for the said detained, is now in the mails en route from Washington, D. C., to San Francisco; and [5] it is for said reason impossible for your petitioner to annex hereto any part or parts of said immigration records; but your petitioner alleges his willingness to incorporate, and have considered as part and parcel of his petition, the said immigration record when the same shall have been received from the Secretary of Labor, at Washington, and shall have it presented to this Court at the hearing to be had hereon.

That it is the intention of the said Commissioner to deport the said detained out of the United States and away from the land of which they are citizens by the SS. "Nanking," sailing from the port of San Francisco on the 11th day of May, 1921, at 1 P. M., and unless this Court intervenes to prevent said deportation the said detained will be deprived of residence within the land of their birth.

That the said detained are in detention as aforesaid and for said reason are unable to verify this said petition upon their own behalf and for said reason petition is verified by your petitioner, but for and as the act of the said detained.

WHEREFORE, your petitioner prays that a writ of habeas corpus issue herein as prayed for, directed to the said Commissioner, commanding and directing him to hold the bodies of the said detained within the jurisdiction of this Court, and to present the bodies of the said detained before this Court at a time and place to be specified in said order, together with the time and cause of their detention, so that the same may be inquired into to the end that said detained may be restored to their liberty and go hence without day.

Dated San Francisco, Calif., May 9th, 1921.

YOUNG FAI,
Petitioner. [6]

GEO. A. MCGOWAN,
Attorney for Petitioner, Bank of Italy Building,
550 Montgomery Street, San Francisco, California.

United States of America,
State and Northern District of California,
City and County of San Francisco,—ss.

The undersigned, being first duly sworn, deposes and says: That he is the petitioner named in the foregoing petition; that the same has been read and explained to him and he knows the contents thereof, that the same is true of his own knowledge except as to those matters which are therein stated on his

information and belief, and as to those matters he believes it to be true.

YOUNG FAI.

Subscribed and sworn to before me this 9th day of May, 1921.

[Notary's Seal] THOMAS S. BURNS,
Notary Public in and for the City and County of
San Francisco, State of California.

[Endorsed]: Filed May 10, 1921. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [7]

In the Southern Division of the United States
District Court in and for the Northern District
of California, First Division.

No. 17,215.

In the Matter of YOUNG YEN and YOUNG
SOON (19981/15-6 and 7 Ex. SS. "Nile,"
2/21/21), on Habeas Corpus.

Order to Show Cause.

Good cause appearing therefor, and upon reading the verified petition on file herein,—

IT IS HEREBY ORDERED that Edward White, Commissioner of Immigration for the port of San Francisco, appear before this Court on the 14th day of May, 1921, at the hour of 10 o'clock A. M. of said day, to show cause, if any he has, why a writ of habeas corpus should not be issued as herein prayed for; and that a copy of this order be served upon the said Commissioner.

AND IT IS FURTHER ORDERED that the said Edward White, Commissioner of Immigration as aforesaid, or whoever, acting under the orders of the said Commissioner or the Secretary of Labor, shall have the custody of the said Young Yen and Young Soon, are hereby ordered and directed to retain the said Young Yen and Young Soon within the custody of the said Commissioner of Immigration, and within the jurisdiction of this court until its further order herein.

Dated San Francisco, California, May 10th, 1921.

JEREMIAH NETERER,
United States District Judge.

[Endorsed]: Filed May 10, 1921. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [8]

In the Southern Division of the United States
District Court for the Northern District of
California, First Division.

No. 17,215.

In the Matter of YOUNG YEN and YOUNG
SOON, on Habeas Corpus.

Demurrer to Petition for Writ of Habeas Corpus.

Comes now the respondent, Edward White, Commissioner of Immigration, at the port of San Francisco, in the Southern Division of the Northern District of California, and demurs to the petition for a writ of habeas corpus in the above-entitled cause and for grounds of demurrer alleges:

I.

That the said petition does not state facts sufficient to entitle petitioners to the issuance of a writ of habeas corpus, or for any relief thereon.

II.

That said petition is insufficient in that the statements therein relative to the record of the testimony taken on the trial of the said applicants are conclusions of law and not statements of the ultimate facts.

WHEREFORE, respondent prays that the writ of habeas corpus be denied.

FRANK M. SILVA,
United States Attorney.

BEN. F. GEIS,
Asst. United States Attorney,
Attorneys for Respondent.

[Endorsed]: Filed Jun. 18, 1921. W. B. Maling,
Clerk. By Lyle S. Morris, Deputy Clerk. [9]

In the Southern Division of the United States
District Court for the Northern District of
California, First Division.

No. 17,215.

In the Matter of YOUNG YEN and YOUNG
SOON, on Habeas Corpus.

(Order Overruling Demurrer.)

GEO. A. MCGOWAN, Esq., Attorney for Petitioners.

FRANK M. SILVA, Esq., United States Attorney,
and BEN. F. GEIS, Esq., Assistant United
States Attorney, Attorneys for Respondent.

**ON DEMURRER TO PETITION FOR A WRIT
OF HABEAS CORPUS.**

The demurrer to the petition for a writ of habeas corpus herein is overruled, and the writ will issue as prayed for returnable on July 2d at 10 o'clock A. M.

June 27th, 1921.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Jun. 27, 1921. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [10]

In the Southern Division of the United States
District Court for the Northern District of
California, First Division.

No. 17,215.

In the Matter of YOUNG YEN and YOUNG
SOON, on Habeas Corpus.

Writ of Habeas Corpus.

The President of the United States of America, to
the Commissioner of Immigration, Port of San
Francisco, Calif., Angel Island, California,
GREETING:

YOU ARE HEREBY COMMANDED that you have the bodies of the said persons by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name the said persons shall be called or charged, before the Honorable Maurice T. Dooling, Judge of the United States District Court for the Northern District of California, at the courtroom of said court in the city and county of San Francisco, California, on the 2d day of July, A. D. 1921, at 10 o'clock A. M., to do and receive what shall then and there be considered in the premises.

And have you then and there this writ.

WITNESS, the Honorable MAURICE T. DOOLING, Judge of the said United States District Court, and the seal thereof, at San Francisco, California, in said District, on the 28th day of June, A. D. 1921. [11]

[Seal]

W. B. MALING,
Clerk.

By C. W. Calbreath,
Deputy Clerk.

GEORGE A. MCGOWAN,
Attorney for Petitioners.

Return on Service of Writ.

United States of America,
Northern District of California,—ss.

I hereby certify and return that I served the annexed writ of habeas corpus on the therein named Commissioner of Immigration, Edward White, by

handing to and leaving a true and correct copy thereof with Commissioner of Immigration, Edward White, personally at S. F., in said District, on the 28th day of June, A. D. 1921.

J. B. HOLOHAN,

U. S. Marshal.

By Chris. Runckle,

Deputy.

[Endorsed]: Filed Jun. 28, 1921. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [12]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 17,215.

In the Matter of YOUNG YEN and YOUNG SOON, on Habeas Corpus.

Return to Writ of Habeas Corpus.

Comes now Edward White, Commissioner of Immigration at the Port of San Francisco, by P. A. Robbins, Immigrant Inspector, and in return to said petition for a writ of habeas corpus, admits, denies and alleges as follows:

I.

Denies that Young Yen and Young Soon, or Young Yen or Young Soon, referred to as the "detained" are, or is either of them, unlawfully imprisoned, detained, confined and restrained, or imprisoned or detained or confined or restrained of

their liberty by Edward White, Commissioner of Immigration for the Port of San Francisco, or by any other person or persons whatever at the Immigration Station at Angel Island, County of Marin, State and Northern District of California, Southern Division thereof, or elsewhere or at all, so imprisoned or detained or confined or restrained; and denies that the imprisonment or detention or confinement or restraint of the said Young Yen and Young Soon, or Young Yen or Young Soon, or either of them are or is illegal. But in this connection alleges the fact to be that the said Young Yen and Young Soon are detained by the Commissioner of Immigration at the Immigration Station at Angel Island for deportation to China pursuant to and under the authority of an order of deportation [13] duly made, given and entered by E. J. Henning, Assistant Secretary of the Department of Labor, Washington, D. C., as appears from Respondent's Exhibits "A," "B," "C," "D," "E" and "F," now on file as a part of the petition herein and which records are hereby referred to and made a part of this record with the same full force and effect as if set out in full herein.

II.

Denies that the hearing and proceedings or hearing or proceedings had herein and the action of the said Commissioner and the action of the said Secretary or the action of the said Commissioner or the action of the said Secretary was and is or was or is, in excess of the authority committed to them by the

said rules and regulations or rules or regulations or by said statutes.

III.

Denies that the denial of the application of the said detained or either of them to enter the United States as the sons of native-born citizens thereof or as the sons of a native-born citizen of the United States, was and is or was or is an abuse of the authority committed to them by the said statutes.

IV.

Denies that the evidence presented before the immigration authorities upon the applications of the said detained or either of them to enter the United States was or is of such a conclusive kind and character or kind or character at all, showing the said detained or either of them to be the sons of native-born citizens or the sons of a native-born citizen of the United States; that it was or is an abuse of discretion on the part of said Commissioner and the [14] said Secretary or the said Commissioner or the said Secretary, or either of them, to deny the said detained or either of them the right to admission into the United States.

V.

Denies that said evidence was or is of such legal weight and sufficiency or weight or sufficiency at all that it was or is an abuse of discretion on the part of the said Commissioner and the said Secretary or the said Commissioner, or the said Secretary, or either of them, to deny the said detained or either of them the right to admission into the United States.

VI.

Denies that said adverse action or any action at all of the said Commissioner and the said Secretary or the said Commissioner or the said Secretary, or either of them, was or is arrived at or was or is done in denying the said detained or either of them the fair hearing and consideration or hearing or consideration of their cases or the case of either of them to which they or either of them were or are entitled.

VII.

Denies that said action or any action at all was or is done in excess of the discretion committed to the said Secretary and to the said Commissioner of Immigration or to the said Secretary or to the said Commissioner of Immigration, or to either of them.

VIII.

Denies that said action or any action at all of the said Secretary and the said Commissioner or the said Secretary or the said Commissioner, or either of them, was or is influenced against the said detained or either of them or [15] against their witnesses or either or any of them, solely or at all because of their or either or any of them being of the Chinese race. And in this connection alleges the fact to be that the said detained were denied admission into the United States by the said Secretary of Labor, for the reason that the right of the said detained to enter the United States as persons exempt from the provisions of the Chinese exclusion laws has not been satisfactorily established. That is to say, that the relationship of father and son

between the said detained and their alleged father, Young Fai, has not been satisfactorily established.

WHEREFORE, respondent prays that the said petition be denied and said detained, Young Yen and Young Soon, be remanded to the custody of respondent for deportation, and for such other and further relief as to this Court seems equitable and just.

FRANK M. SILVA,
United States Attorney.

BEN F. GEIS,
Assistant United States Attorney.

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

P. A. Robbins, being first duly sworn, deposes and says: That he is a Chinese and Immigrant Inspector connected with the Immigration Service for the Port of San Francisco, and has been especially directed to appear for and represent the respondent, Edward White, Commissioner of Immigration, in the within entitled matter; that he is familiar with all the facts set forth in the within return to writ of habeas [16] corpus and knows the contents thereof; that of affiant's knowledge the matters set forth in the return to writ of habeas corpus are true, excepting those matters which are stated on information and belief and that as to those matters, he believes it to be true.

P. A. ROBBINS.

Subscribed and sworn to before me this 2d day of July, 1921.

[Seal]

C. M. TAYLOR,
Deputy Clerk of the United States District Court,
Northern District of California.

[Endorsed]: Filed Jul. 2, 1921. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [17]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 17,215.

In the Matter of YOUNG YEN and YOUNG SOON, on Habeas Corpus.

(Traverse to Return.)

COMES now the petitioner herein and traversing the return of the respondent, does hereby deny and admit as follows:

FIRST. Petitioner denies each and every, all and singular, the allegations contained in the petition for a writ of habeas corpus on file herein.

SECOND. Petitioner denies each and every, all and singular, the allegations contained in said return which are contrary to, or at variance with, or in denial of, any of the allegations contained in said petition.

WHEREFORE petitioner prays that the writ of habeas corpus be made permanent and the said wife and child discharged from custody.

YOUNG FAI,
Petitioner.

Dated at San Francisco, California, June 30th, 1921.

GEO. A. McGOWAN,
Attorney for Petitioner, 550 Montgomery Street,
San Francisco, California. [18]

United States of America,
State and Northern District of California,
City and County of San Francisco,—ss.

Young Tai, being first duly sworn, deposes and says:

That he is the petitioner named and referred to in and who subscribed to the foregoing petition; that the same has been read and explained to him and that he knows the contents thereof; and that the same is true of his own knowledge except as to those matters which are therein stated on his information and belief, and as to those matters he believes it to be true.

YOUNG FAI,
Petitioner.

Subscribed and sworn to before me this 1st day of July, 1921.

[Seal of the Notary] THOMAS S. BURNS,
Notary Public in and for the City and County of
San Francisco, State of California.

[Endorsed]: Filed Jul. 2, 1921. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [19]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 17,215.

In the Matter of YOUNG YEN and YOUNG SOON, on Habeas Corpus.

Order of Discharge.

This matter having been regularly brought on for hearing upon the issues joined herein, and the same having been duly heard and submitted, and due consideration having been thereon had, it is by the Court now here ORDERED that the said named persons in whose behalf the writ of habeas corpus was sued out are illegally restrained of their liberty, as alleged in the petition herein, and that they be and they are hereby discharged from the custody from which they have been produced, and that they go hence without day.

Entered this 2d day of July, 1921.

[Seal]

WALTER B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk.

[Endorsed]: Filed Jul. 2d, 1921. Walter B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.
[20]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 17,215.

EDWARD WHITE, as Commissioner of Immigration at the Port of San Francisco,

Appellant,

vs.

YOUNG YEN and YOUNG SOON,

Appellees.

Notice of Appeal.

To the Clerk of the Above-entitled Court, to Young Yen, and Young Soon and to George A. McGowan, Their Attorney.

You and each of you will please notice that Edward White, Commissioner of Immigration at the Port of San Francisco, appellant herein, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit, from an order and judgment made, given and entered herein on the 2d day of July, 1921, setting aside the return to the petition for a writ of habeas corpus, and discharging the said Young Yen and Young Soon from the custody of the said Edward White, Commissioner of Immigration at the Port of San Francisco, and appellees herein.

Dated this 25 day of July, 1921.

FRANK M. SILVA,
United States Attorney,

BEN F. GEIS,
Assistant United States Attorney,
Attorneys for Appellant.

Receipt of service and copy of the within notice of appeal is acknowledged this 25th day of July, 1921.

GEO. A. MCGOWAN,
Attorney for Appellees. [21].

[Endorsed]: Filed Jul. 25, 1921. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [22]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 17,215.

EDWARD WHITE, as Commissioner of Immigration at the Port of San Francisco,
Appellant,

vs.

YOUNG YEN and YOUNG SOON,
Appellees.

Petition for Appeal.

To the Honorable F. H. RUDKIN, Judge of the District Court of the United States for the Northern District of California.

Edward White, as Commissioner of Immigration

at the Port of San Francisco, appellant herein, feeling aggrieved by the order and judgment made, given and entered in the above-entitled cause on the 2d day of July, 1921, discharging Young Yen and Young Soon from the custody of said appellant, does hereby appeal from said order and judgment to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons set forth in the assignment of errors filed herewith.

WHEREFORE, petitioner prays that his appeal be allowed and that citation be issued, as provided by law, and that a transcript of the record, proceedings and documents, and all of the papers upon which said order and judgment were based, duly authenticated, be sent to the United States Circuit Court of Appeals for the Ninth Circuit, under the rules of said Court and in accordance with the law in such case made and provided. [23]

Dated this 25 day of July, 1921.

FRANK M. SILVA,

United States Attorney,

BEN F. GEIS,

Asst. United States Attorney.

Receipt of service and copy of the within petition for appeal is acknowledged this 25th day of July, 1921.

GEO. A. MCGOWAN,

Attorney for Appellees.

[Endorsed]: Filed Jul. 25, 1921. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk. [24]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 17,215.

EDWARD WHITE, as Commissioner of Immigration at the Port of San Francisco,

Appellant,

vs.

YOUNG YEN and YOUNG SOON,

Appellees.

Assignment of Errors.

Comes now Edward White, Commissioner of Immigration at the Port of San Francisco, respondent in the above-entitled cause, and appellant in the appeal to the United States Circuit Court of Appeals for the Ninth Circuit, taken herein by his attorneys, Frank M. Silva, United States Attorney, and Ben F. Geis, Assistant United States Attorney, and files the following assignment of errors upon which he will rely in the prosecution of his appeal in the above-entitled cause to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and judgment made by this Honorable Court on the 2d day of July, 1921.

I.

That the Court erred in granting the writ of habeas corpus and discharging the said Young Yen and Young Soon from the custody of Edward

White, Commissioner of Immigration at the Port of San Francisco.

II.

That the Court erred in holding that it had jurisdiction to issue the writ of habeas corpus in the above-entitled cause as prayed for in the petition on behalf of said Young Yen and Young Soon for a writ of habeas corpus. [25]

III.

That the Court erred in holding that the allegations set forth in the petition for writ of habeas corpus were sufficient in law to justify the granting and issuing of a writ of habeas corpus.

IV.

That the Court erred in finding that the evidence upon which the Secretary of Labor issued the order of deportation for the said Young Yen and Young Soon was insufficient in character.

V.

That the Court erred in holding that Young Yen and Young Soon, or either of them, was or is unlawfully imprisoned, detained, confined and restrained of his liberty by Edward White, Commissioner of Immigration at the Port of San Francisco.

VI.

That the Court erred in holding that the evidence taken at the hearings accorded the said Young Yen and Young Soon before the immigration officials was insufficient to justify the said respondent Edward White to hold, detain or deport the said Young Yen and Young Soon.

VII.

That the Court erred in determining as a question of fact that Young Yen and Young Soon were or was either of them sons of Young Fai as against the decision of the Board of Special Inquiry and the Secretary of Labor that the said Young Yen and Young Soon were not nor was either of them sons of Young Fai.

VIII.

That the Court erred in determining as a question of [26] fact that Young Fai was or is the father of Young Yen and Young Soon or either of them as against the decision of the Board of Special Inquiry and the Secretary of Labor that the said Young Fai was or is not the father of said Young Yen and Young Soon or either of them.

IX.

That the Court erred in holding that Young Yen and Young Soon were citizens of the United States and as such citizens entitled to enter the United States.

X.

That the Court erred in determining as a question of fact that said Young Yen and Young Soon were citizens of the United States as against the decision of the Board of Special Inquiry and the Secretary of Labor that the said Young Yen and Young Soon were not citizens of the United States.

XI.

That the Court erred in holding there was not sufficient evidence that said Young Yen and Young Soon were not citizens of the United States.

XII.

That the Court erred in holding that there was an abuse of discretion on the part of the Board of Special Inquiry and the Secretary of Labor in denying the said Young Yen and Young Soon the right to enter the United States.

XIII.

That the Court erred in holding that the hearing or hearings accorded the said Young Yen and Young Soon by the immigration officials was or were unfair.

WHEREFORE, appellant prays that the said order and judgment of the United States District Court, for the Northern District of California, made and entered herein, in the [27] office of the clerk of said court, on the said 2d day of July, 1921, setting aside the return to the petition for a writ of habeas corpus, and discharging the said Young Yen and Young Soon from the custody of Edward White, Commissioner of Immigration, be reversed, and that the said Young Yen and Young Soon be remanded to the custody of said Commissioner of Immigration.

Dated this 25th day of July, 1921.

FRANK M. SILVA,

United States Attorney,

BEN F. GEIS,

Assistant United States Attorney,

Attorneys for Appellant.

Receipt of service and copy of the within assign-

ment of errors is acknowledged this 25th day of July, 1921.

GEO. A. McGOWAN,
Attorney for Appellees.

[Endorsed]: Filed Jul. 25, 1921. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [28]

In the Southern Division of the United States
District Court for the Northern District of
California, First Division.

No. 17,215.

EDWARD WHITE, as Commissioner of Immigra-
tion at the Port of San Francisco,
Appellant,

vs.

YOUNG YEN and YOUNG SOON,
Appellees.

Order Allowing Appeal.

On motion of Frank M. Silva, United States Attorney, and Ben F. Geis, Assistant United States Attorney, attorneys for appellant in the above-entitled cause,—

IT IS HEREBY ORDERED that an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and judgment of July 2, 1921, heretofore made and entered herein, be, and the same is hereby allowed, and that a certified transcript of the records, testimony, exhibits, stipulations and all proceedings be forthwith trans-

mitted to the said United States Circuit Court of Appeals for the Ninth Circuit, in the manner and time prescribed by law.

Dated this 25th day of July, 1921.

FRANK H. RUDKIN,
Judge of the District Court.

Receipt of service and copy of the within order allowing appeal *in* acknowledged this 25 day of July 1921.

GEO. A. MCGOWAN,
Attorney for Appellees.

[Endorsed]: Filed Jul. 25, 1921. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk. [29]

In the Southern Division of the United States
District Court for the Northern District of
California, First Division.

No. 17,215.

In the Matter of YOUNG YEN and YOUNG
SOON on Habeas Corpus.

Stipulation (Re Exhibits).

It is hereby stipulated and agreed by and between the respective parties in the above-entitled cause that the records of the Immigration Service, which were filed in the above-entitled court as Respondent's Exhibit "A," "B," "C," "D," "E" and "F," and which were made a part of respondent's return to the petition for a writ of habeas corpus in said cause, may be transferred, in their original form and

without being transcribed or copied, to the United States Circuit Court of Appeals for the Ninth Circuit, and the said records of the immigration service are and may there be considered as a part of respondent's return to the said petition for a writ of habeas corpus, and the record in determining this cause on appeal to the said United States Circuit Court of Appeals for the Ninth Circuit, without objection on the part of either of the said respective parties.

Dated this 25th day of July, 1921.

FRANK M. SILVA,
United States Attorney,
BEN F. GEIS,

Assistant United States Attorney,
Attorneys for Appellant.
GEO. A. McGOWAN,
Attorney for Petitioners. [30]

Receipt of service and copy of within stipulation is acknowledged this 25th day of July, 1921.

GEO. A. McGOWAN,
Attorney for Appellees.

[Endorsed]: Filed Jul. 25, 1921. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [31]

In the Southern Division of the United States
District Court for the Northern District of
California, First Division.

No. 17,215.

In the Matter of YOUNG YEN and YOUNG
SOON on Habeas Corpus.

Order Transmitting Original Exhibits to Appellate Court.

It appearing to the Court that it is both necessary and proper that the records of the Immigration Service referred to in the above stipulation should be inspected in the United States Circuit Court of Appeals for the Ninth Circuit, in determining the appeal of the said cause the same having been filed and considered as stated in this court,—

IT IS THEREFORE ORDERED that the said records be transferred in their original form by the clerk of this court to the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, to be retained by said clerk until the appeal in the above-entitled cause is properly disposed of, at which time the same are to be returned to the clerk of the above-entitled court.

Dated this 25th day of July 1921.

FRANK H. RUDKIN,
United States District Judge.

Receipt of service and copy of the within order transmitting exhibits to Appellate Court is acknowledged this 25 day of July, 1921.

GEO. A. MCGOWAN,
Attorney for Appellees.

[Endorsed]: Filed Jul. 25, 1921. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [32]

**Certificate of Clerk U. S. District Court to
Transcript on Appeal.**

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 32 pages numbered from 1 to 32, inclusive, contain a full, true, and correct transcript of certain records and proceedings, In the Matter of YOUNG YEN and YOUNG SOON, on Habeas Corpus, No. 17,215, as the same now remain on file and of record in this office; said transcript having been prepared pursuant to and in accordance with the praecipe for transcript on appeal (copy of which is embodied herein) and the instructions of the attorneys for respondent and appellant herein.

I further certify that the cost for preparing and certifying the foregoing transcript on appeal is the sum of Eleven Dollars and Sixty-five Cents (\$11.65), and that the same will be charged against the United States in my next quarterly account.

Annexed hereto is the original citation on appeal issued herein (page 34).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court this 13th day of August, A. D. 1921.

[Seal]

WALTER B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk. [33]

Citation on Appeal.

UNITED STATES OF AMERICA,—ss.

The President of the United States to YOUNG YEN and YOUNG SOON and to GEORGE A. McGOWAN, Esq., Their Attorney, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, Southern Division thereof, First Division, wherein Edward White, as Commissioner of Immigration at the port of San Francisco, is appellant, and you are appellees, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable FRANK H. RUDKIN, United States District Judge for the Northern District of California, this 12th day of August, A. D. 1921.

FRANK H. RUDKIN,
United States District Judge. [34]

[Endorsed]: No. 17,215. United States District Court for the Northern District of California. Edward White, as Commissioner of Immigration, etc.,

Appellant, vs. Young Yen and Young Soon, Appellees. Citation on Appeal. Filed Aug. 13, 1921. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.

Due service and receipt of copy of the within is hereby acknowledged this 12th day of August, 1921.

GEO. A. McGOWAN,
Attorney for Appellees.

[Endorsed]: No. 3751. United States Circuit Court of Appeals for the Ninth Circuit. Edward White, as Commissioner of Immigration at the Port of San Francisco, Appellant, vs. Young Yen and Young Soon, Appellees. Transcript of Record. Upon Appeal from the Southern Division of the United States District Court for the Northern District of California, First Division.

Filed August 13, 1921.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.